

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

CHAMBERS OF
STEPHANIE A. GALLAGHER
UNITED STATES MAGISTRATE JUDGE

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February 6, 2013

LETTER TO COUNSEL

Re: *Goldstein v. FDIC-R*, Civil No. ELH-11-1604

Dear Counsel,

This case has been referred to me for discovery-related issues. ECF No. 39. I have reviewed Plaintiff's Motion to Strike Defendant's Motion to Compel Discovery, and the opposition and reply thereto. ECF Nos. 58, 62, 69. No hearing is deemed necessary. Loc. R. 105.6 (D. Md. 2011). For the reasons set forth herein, Plaintiff's Motion will be GRANTED and Defendant's Motion to Compel (ECF No. 58, Ex. A) will be stricken.

On August 27, 2012, Plaintiff served written discovery responses on Defendant. A privilege log accompanied those responses. Defendant served a Motion to Compel four months later, on December 27, 2012, in which Defendant sought production of the allegedly privileged documents.

Plaintiff seeks to strike the Motion to Compel as untimely under Local Rule 104.8, which requires that a motion to compel be served within 30 days of receiving a deficient response. Defendant counters that the appropriate standard is the "reasonably prompt" standard set forth in Discovery Guideline 10.d.iv. I need not opine on which standard applies, because Defendant's belated Motion to Compel fails under either standard.

Defendant provides no explanation for the four month delay between its receipt of the privilege log and its filing of the motion. The essential argument in Defendant's Motion to Compel is that communications involving Plaintiff's financial advisor, Protiviti, are not properly privileged. Protiviti's involvement in the communications is readily ascertained from a cursory review of the privilege log. Defendant alleges that it made efforts to resolve the dispute without court involvement, but provides no details regarding those efforts, and no explanation as to why those efforts took four months.

Moreover, Defendant has provided no compelling reason supporting suspension or waiver of the Local Rules. Because Defendant's Motion to Compel was neither filed within 30 days nor filed reasonably promptly after receipt of the privilege log, the Motion to Compel will be stricken.

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Despite the informal nature of this letter, it should be flagged as an opinion. An implementing Order follows.

Sincerely yours,

/s/

Stephanie A. Gallagher
United States Magistrate Judge

cc: Judge Hollander